

### REMARKS

In view of the above amendment, applicant believes the pending application is in condition for allowance.

The Office Action and prior art have been relied upon have been carefully considered. In an effort to expedite prosecution, the previous claims have been canceled and new claims 36-49 are presented for the Examiner's consideration.

A Substitute Abstract accompanies this amendment as required by the Examiner in paragraph 1 of the Office Action.

Claims 31-35 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 22-26 and 28-30 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Pool (4,240,568) in view of Kensey (5,234,133). Claims 27 and 35 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Pool in view of Kensey, and further in view of Giarrante (5,893,489).

The claims 22-35 have been replaced by newly added claims 36-49 and these claims correct the § 112 informalities and clearly define over the cited prior art cited by the Examiner.

The claims have been amended to recite that the handle is a **carry** handle and is pivotable between a stowed and a carry position.

In all the citations the handle is attached to the container, not the closure element. Although the Examiner asserts that Kensey discloses a handle, the handle is attached to the container (see figs 1, 3, 16) not the closure attachment. Item 42 of Kensey is not a handle for carrying the container. At col 4 lines 55-62 item 42 is described as finger holds or hooks. These hooks are not designed to take the weight of the filled container and are not pivotable.

Although the Examiner asserts that Pool does not disclose a handle it does (fig 4 and 5), but like Kensey, the handle is attached to the container.

The closure, lid and pivotable handle combination of this invention provides all the requirements of a pouring attachment in the form of closure for a container such as a paint can. This is a less expensive arrangement than proposed in the prior art

In view of the above, consideration and allowance are, therefore, respectfully solicited.

In the event the Examiner believes an interview might serve to advance the prosecution of this application in any way, the undersigned attorney is available at the telephone number noted below.

The Director is hereby authorized to charge any fees, or credit any overpayment, associated with this communication, including any extension fees, to CBLH Deposit Account No. 22-0185, under Order No. 21854-00050-US from which the undersigned is authorized to draw.

Dated: November 2, 2007

Respectfully submitted,

Electronic signature: /Morris Liss/

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